

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ERIC SMALLS,

Plaintiff,

9:05-CV-1469
(DNH)(DEP)

v.

DALE LACLAIR; HENRY LAFOREST; DENNIS BOUVIER;
RONALD MUSSEM; TERRY ALLEN; JAMES CANNING;
R. MITCHELL; R. MOORE,

Defendants.

APPEARANCES:

OF COUNSEL:

ERIC SMALLS
Plaintiff, *pro se*

OFFICE OF THE ATTORNEY GENERAL
State of New York
Counsel for Defendants

ED THOMPSON, ESQ.
Assistant Attorney General

DAVID E. PEEBLES
U.S. MAGISTRATE JUDGE

DECISION AND ORDER

Presently before the Court is a motion to compel discovery filed by *pro se* plaintiff Eric Smalls. Dkt. No. 34. Plaintiff states that he directed a set of interrogatories to each defendant and also served a request for production of documents on defendants' counsel. Dkt. No. 34-1 at 3. Plaintiff further states that he wrote counsel on November 27, 2006, and again on January 16, 2007, requesting responses to his outstanding discovery requests. Dkt. No. 34-2 at 20, 31.¹ According to plaintiff, no responses had been provided as of the date of his motion.

Defendants urge the denial of plaintiff's motion. Dkt. No. 37. Counsel states that

¹ Copies of plaintiff's discovery demands and letters to defendants' counsel are attached to his motion. Dkt. No. 34-2.

on April 16, 2007, interrogatory responses from defendants LaClair, LaForest, and Allen were served on plaintiff, along with a response to plaintiff's request for documents. Dkt. No. 37-2.² Counsel advised that no response would be forthcoming from defendant Mussem, who is deceased. As to defendant Bouvier, counsel stated that this defendant is no longer employed at Clinton Correctional Facility and that responses have not been obtained from him. *Id.* No information was provided with respect to defendants Canning, Moore and Mitchell.

In reply, plaintiff acknowledges his receipt of the discovery responses referred to above, and reasserts his demand for interrogatory responses from defendants Bouvier, Canning, Moore and Mitchell. Dkt. No. 39.

Based upon the foregoing, plaintiff's motion to compel is granted in part and denied in part. Interrogatory responses from defendants Bouvier, Canning, Moore and Mitchell shall be served on plaintiff within thirty (30) days of the filing date of this Order.³ Plaintiff's motion is denied in all other respects.

WHEREFORE, it is hereby

ORDERED, that plaintiff's motion to compel (Dkt. No. 34) is granted in part and denied in part as set forth above, and it is further

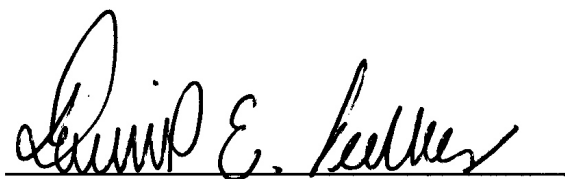
² The response to plaintiff's document request is attached to defendants' opposition papers. Dkt. No. 37-2. The interrogatory responses were not submitted.

³ Defendant Bouvier has been served in this action, and the Office of the Attorney General has appeared on his behalf. See Dkt. Nos. 30-31. Accordingly, a change in defendant Bouvier's employment does not affect the obligation of the Office of the Attorney General to respond to discovery directed to Bouvier.

ORDERED, that the dispositive motion filing deadline is reset to September 30, 2007, and it is further

ORDERED, that the Clerk serve a copy of this Decision and Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "David E. Peebles", is written over a horizontal line.

David E. Peebles
U.S. Magistrate Judge

Dated: June 7, 2007
Syracuse, New York